D.B. CIVIL SPECIAL APPEAL(W)NO.19/2006

Brahamdutt Kaushik
Vs.
State of Rajasthan & Ors.

DATE OF ORDER :: 23-03-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Man Singh, for the appellant.

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the order of the disciplinary authority dated 13.11.1990 as well as the order of the appellate authority dated 12.9.1991 whereby and whereunder his pay was reduced by three stages in the time scale of pay as a measure of punishment. The departmental proceeding was initiated on number of charges pertaining to the period when the appellant was posted as Tehsildar authorised to perform duties of the Administrator of Neem-Ka-Thana Municipality for four months. He allegedly committed a number of irregularities as Administrator during that brief period.

Counsel for the appellant assailed the impugned order firstly on the ground that the appellant was not supplied copy of the enquiry report. From the record it appears that two enquiry reports were submitted by different Additional Collectors vide annexure-15 and 16

to the writ petition, holding the charges to be proved. The appellant filed effective show cause pursuant to show cause notice and also later preferred appeal before the appellate authority. The object of furnishing copy of the enquiry report is to enable the delinquent to meet the finding of the Enquiry Officer. Inasmuch as the appellant filed a proper show cause and, also, appeal, we do not think he suffered any prejudice on account of non-supply of the copy of the enquiry reports which could vitiate the ultimate order.

Counsel then submitted that in terms of rule 14 (iv) of the Rajasthan Civil Services (Classification, Control and Appeal)Rules, 1958, pay could be reduced by one stage only, and therefore, punishment of reduction of pay by three stages was contrary to rule. We find no substance in the contention. The words in rule 14(iv) are “reduction to a lower service, grade or post; or to a lower time scale or to a lower stage in the time scale.....”. It is not possible to accept the contention that reduction to lower stage in the time scale means reduction by only one stage.

Counsel finally submitted that the respondents were required to specify the period for which the punishment was to remain in force. In this regard, reference was made to rule 34 of the Rajasthan Service Rules. Rule 34 lays down, if a Government servant is

reduced as a measure of penalty to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether on restoration, the period of reduction shall operate to postpone future increments and if so, to what extent. The submission of the counsel appears to be attractive but does not help the appellant, for, soon after the punishment order was passed on 13.11.1990, he retired from service on reaching the age of superannuation on 30.11.1990. There was thus no occasion to specify the period for which the punishment was to remain effective after which the original pay could be restored resulting in pensionary benefits.

Having thus rejected the contentions of the counsel, we find no merit in this appeal which is accordingly dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen